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February 4, 2019

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: In the Matter of Inquiry Concerning Deployment of Advanced Telecommunications
Capability to All Americans in a Reasonable and Timely Fashion, GN Docket No. 18-238

Dear Ms. Dortch:

On behalf of The Leadership Conference on Civil and Human Rights and the undersigned groups, we write to offer our views in this proceeding.¹ The Leadership Conference is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States. The Leadership Conference's Media/Telecommunications Task Force is committed to ensuring that all communities, particularly those who are underserved, have access to affordable, reliable, high-quality advanced communications services, and that workers in the industry have good jobs.

As discussed in more detail below, we make the following recommendations:

- The Commission should measure advanced telecommunications capability and deployment in the 706 inquiry by looking to its practical purpose: its use by people in the United States.
- The Commission should take a forward-looking approach and update its benchmark speed for evaluating advanced telecommunications capability.
- The Commission should reaffirm its previous conclusion that adequate access to advanced telecommunications capability means access to both fixed and mobile broadband service. These services are complementary, not substitutes for each other.
- The Commission should not conclude that the current deployment of advanced telecommunications capability is "reasonable and timely," and should take action to adopt subsidies, support tax policies and digital inclusion programs, and bolster robust broadband Lifeline service. Such actions will accelerate investment in broadband infrastructure, encourage broadband adoption, and close the digital divide.

High-speed broadband is the essential infrastructure of the 21st century. It provides the platform for economic development, jobs, education, health care, public safety, energy efficiency, civic participation, entertainment, and communications among friends and family. The Commission's annual evaluation of advanced telecommunications services is critical to the economic and social well-being of our nation.

The Commission should consider advanced telecommunications capability deployment in the 706 inquiry by looking to its practical purpose: its use by the people in the U.S. In its *NOI*, the Commission seeks comment on how it should evaluate the reasonable and timely deployment of advanced telecommunications capabilities. The Commission specifically proposes to measure progress by comparing deployment in the present year to prior years.² However, this metric departs from measurement standards adopted in prior 706 inquiries and moves the Commission away from evaluating whether every person in the United States has access to broadband. The Commission should instead analyze the raw numbers of who has access to broadband, while looking to its practical purpose: its use by the people in the United States.

While broadband deployment to unserved and underserved areas has improved over the years, use and adoption continue to be below optimal levels. According to the most recent census data, only 68.8 percent of people in the U.S. have a wired broadband connection.³ For households earning \$20,000 a year or less, nearly 41 percent do not have a wired broadband connection and for households earning between \$20,000 and \$75,000, nearly 20 percent lack access.⁴ Home broadband access for communities of color continues to lag behind the rest of the country. According to a recent report from Free Press, 30 percent of Hispanics, 32 percent of African Americans, and 32 percent of Native Americans do not have a wired connection.⁵ The disparity is most severe at the lowest income levels where 49 percent of Hispanics and 50 percent of African Americans making less than \$20,000 lack access to broadband at home.⁶ Significant disparities in broadband access also exist for communities of color living in rural areas. Free Press' report found that 27 percent of communities of color in rural areas are unserved.⁷ Further, poverty for communities of color living in rural areas is significantly greater than white rural communities.⁸ These communities often cite affordability as a reason for not subscribing to broadband.

Households who cannot afford broadband are likely to subscribe, only to end a subscription later when financial struggles and pressures preclude a monthly subscription payment.⁹ Further, consumers on data limited plans often run out of data before the end of the month—thereby losing the benefit of their subscription.¹⁰ Therefore, consistency in access and affordability impact use should be considered in conjunction with evaluating advanced telecommunications capability deployment. No private or public entity currently measures consistency in access.

Concentrated lack of broadband adoption at the neighborhood level can be more problematic than more widely dispersed adoption. A recent Brookings report found that:

In 2015, almost one in four people (a total of 73.5 million) in the United States lived in low subscription neighborhoods, where fewer than 40 percent of households subscribed to broadband. Such neighborhoods concentrate the digitally disconnected portions of the American population, leaving their residents at risk of missing the economic benefits of a high-speed internet connection.¹¹

Brookings further found that adoption was below 50 percent in neighborhoods where the median income was below \$35,000.¹² Further granularity in data collection would improve the Commission's assessment of adoption by neighborhood.¹³

The Commission should take a forward-looking approach and update its benchmark speed for broadband. The *NOI* proposes to maintain the current benchmark speed for fixed broadband at 25/3 Mbps.¹⁴ However, after three years of maintaining the benchmark at 25/3 Mbps, now is the time for the Commission to take a forward-looking approach and raise the standard for broadband. Increasing the broadband benchmark speed is important as households connect to an increasing number of devices for a variety of high-bandwidth uses such as online educational classes and tutoring, video conferencing, telemedicine, and “internet of things” devices.

Further, we note that 25/3 Mbps benchmark falls far short of the goals the Commission set in the 2010 National Broadband Plan – namely, networks capable of delivering 50/20 Mbps by 2015 and 100/50 Mbps by 2020. The current benchmark speed is also inadequate compared to international standards. According to the Commission's own data, the United States ranked 10th out of 28 countries in 2016 in terms of fixed broadband download speeds and 24th out of 28 countries with regard to mobile download speeds.¹⁵

The Commission should take a forward-looking approach and raise the benchmark speed to recognize demand for gigabit networks capable of delivering more data and video-intensive services and applications over the Internet.

We urge the Commission to reaffirm its 2018 Broadband Deployment Report conclusion that fixed and mobile broadband services are complementary, not substitutes for each other,¹⁶ and to conduct its evaluation by this measure. In its *NOI*, the Commission seeks comment on whether wireless broadband service is an adequate substitute for wireline. The Commission's decision to treat fixed and mobile broadband as substitute services would have significant consequences on the progress of broadband deployment.

As the Commission acknowledged in its 2018 Broadband Deployment Report, salient differences between mobile and fixed broadband continue.¹⁷ Mobile broadband allows people to connect from almost any location and smartphones enable many previously unconnected people to access the Internet. However, despite advances in mobile technology, mobile LTE service remains below broadband speed, service dead zones¹⁸ and signal loss reduce reliability, and wireless broadband is more expensive with more restrictions than wireline broadband. These serious drawbacks, along with consumer usage patterns, reaffirm the conclusion that mobile and fixed broadband services are complimentary rather than substitutions for each other.

Low-income communities and communities of color are more smartphone-dependent than wealthier and White communities. According to Pew, 20 percent of poor households – those with household incomes below \$30,000 per year – rely only on mobile service to connect to the Internet, compared to just four percent of households earning more than \$100,000 per year.¹⁹ Fifteen percent of Black households and

twenty-two percent of Latino households are smartphone-dependent, compared to nine percent of White households.²⁰ Smartphone dependency does not provide full access to the benefits of the Internet. In addition to the shortcomings discussed above, it remains difficult to apply for a job, take online classes or training, or write a research paper from a mobile device over mobile service. The Commission, by reconsidering mobile service as a substitute for wireline service, would deny the challenges of the smartphone-dependent, ignore a reality of the digital divide, and discourage investment and digital inclusion efforts to connect these communities.

The Commission should also not consider 5G as a substitute for fixed broadband. While 5G promises to offer faster speeds, less latency, and greater capacity compared to prior generations of wireless networks, this technology is still in the early stages of development. Industry analysts predict 5G networks will not be fully-realized commercial services until 2020.²¹ Further, 5G may have different deployment plans and use cases, making it harder to determine key metrics such as speed, reliability, and coverage. Due to these uncertainties, the Commission should not consider 5G as a substitute for fixed broadband.

The *NOI* also proposes once again to include fixed satellite services as part of its assessment of broadband deployment.²² While satellite broadband has made improvements over time, it still experiences higher latency and performance issues compared to other fixed broadband technologies.²³ Because including satellite can overstate broadband deployment, the Commission should separately analyze it and should not include satellite service in the Commission's evaluation of whether Americans have access to broadband.

We encourage the Commission to take a broad, meaningful look at broadband deployment as it relates to its use and to investigate data that demonstrate low-income neighborhoods lack fiber infrastructure. We reiterate that the Commission should reaffirm its 2018 Broadband Deployment Report conclusion that fixed and mobile broadband services are complementary, not substitutes for each other. The Commission should expeditiously take action to adopt subsidies, support tax policies and digital inclusion programs, and bolster robust broadband Lifeline service. Such actions will accelerate investment in broadband infrastructure, encourage broadband adoption, and close the digital divide.

If you have any questions about the issues raised in this letter, please feel free to contact Media/Telecommunications Task Force Co-Chair Cheryl Leanza, United Church of Christ, Office of Communication, Inc., at 202-904-2168 or cleanza@alhmail.com, or Corrine Yu, Leadership Conference Senior Program Director, at 202-466-5670 or yu@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
Asian Americans Advancing Justice – AAJC
Common Cause
Communications Workers of America
National Hispanic Media Coalition
United Church of Christ, OC Inc.

¹ Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, GN Docket No. 18-238, *Fourteenth Broadband Deployment Report Notice of Inquiry*, FCC 18-119 (rel. Aug. 9, 2018) (“*NOI*”).

² *Id.* at 3.

³ 2017 American Community Survey, 1-Year Estimates, Types of Computers and Internet Subscriptions, S2801, https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_16_1YR_S2801&prodType

⁴ *See id.*

⁵ S. Derek Turner, *The Impact of Systemic Racial Discrimination on Home-Internet Adoption*, Free Press (Dec. 2016), at 4,

https://www.freepress.net/sites/default/files/legacypolicy/digital_denied_free_press_report_december_2016.pdf.

⁶ *Id.*

⁷ *Id.* at 119.

⁸ Rural Broadband Access and Communities of Color, Public Knowledge,

https://www.publicknowledge.org/assets/uploads/blog/Rural_Broadband__Racial_Justice_Fact_Sheet.pdf.

⁹ Samuel Gibbs, Smartphone use rises in US – but many owners struggle with cost, says study, *The Guardian* (according to a Pew study, “23% of all US smartphone owners and 48% of smartphone-dependent users have had to cancel or suspend their phone service because of the cost”).

¹⁰ *Id.* (51% of smartphone-dependent Americans run out of mobile data allowance at least occasionally during the month and almost one-third said it happens frequently).

¹¹ Adie Tomer, et al., Signs of Digital Distress (Brookings: 2017) available at:

<https://www.brookings.edu/research/signs-of-digital-distress-mapping-broadband-availability/>.

¹² *Id.*

¹³ *Id.*

¹⁴ *NOI* at 4.

¹⁵ International Comparison Requirements Pursuant to the Broadband Data Improvement Act, *Sixth Report*, 33 FCC Rcd 978 ¶¶ 9-10 (2018).

¹⁶ Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a reasonable and Timely Fashion, *2018 Broadband Deployment Report*, 33 FCC Rcd 1660 ¶ 18 (2018).

¹⁷ *Id.*

¹⁸ John Eggerton, *Senators Challenge FCC Rural Broadband Map*, Broadcasting and Cable (May 30, 2018), <https://www.broadcastingcable.com/news/senators-challenge-fcc-rural-broadband-map>.

¹⁹ Monica Anderson, *Digital divide persists even as lower-income Americans make gains in tech adoption*, (March 22, 2017), <http://www.pewresearch.org/fact-tank/2017/03/22/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/>.

²⁰ Andrew Perrin, *Smartphones help blacks, Hispanics bridge some – but not all – digital gaps with whites*, (Aug. 31, 2017), <http://www.pewresearch.org/fact-tank/2017/08/31/smartphones-help-blacks-hispanics-bridge-some-but-not-all-digital-gaps-with-whites/>.

²¹ Dexter Johnson, *5G Poised For Commercial Rollout by 2020*, IEEE Spectrum (May 2, 2018), <https://spectrum.ieee.org/tech-talk/telecom/wireless/5g-is-meeting-its-targets-for-2020-commercial-rollout>.

²² *NOI* at ¶ 17.

²³ See Brian Whitacre, Roberto Gallardo, Angela Siefer, and Bill Callahan, *The FCC’s Blurry Vision of Satellite Broadband*, (March 26, 2018), https://www.dailyyonder.com/fccs-blurryvision-satellitebroadband/2018/03/26/24739/?utm_campaign=Newsletters&utm_source=sendgrid&utm_medium=email.